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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/680,452	10/07/2003	David L. Anderson	27644.17	4504

32300 7590 01/27/2006

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EXAMINER

ADAMS, GREGORY W

ART UNIT PAPER NUMBER

3652

DATE MAILED: 01/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

General Comments

This application has been transferred to Examiner Gregory W. Adams.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 33-36 & 41 are rejected under 35 U.S.C. 102(b) as being Katoch USP 6135705.

Katoch discloses a method for stacking incoming items comprising:

- (a) receiving an item in a first end of an item receiving mechanism 13;
 - (b) moving a second end of an item receiving mechanism 13 to track the motion of a stacking mechanism 20, 36-38 (C3/L6-12 & 62-65);
 - (c) transferring the item from the receiving mechanism to the stacking mechanism;
 - (d) stacking the item in a stacking area;
 - (e) unloading the stacking area when the stacking area is full of items (C3/L55); and
- utilizing an overflow mechanism (speeds of the device are controlled accordingly to relieve overflow; i.e. the device can be appropriately slowed down and sped up; C3/L55).

Allowable Subject Matter

Claims 1-27, 31-32 & 37-40 allowed.

Response to Arguments

Applicant's arguments filed November 18, 2005 with respect to claims 33-36 have been fully considered but they are not persuasive. As amended, Applicants arguments with respect to claims 37-41 are moot.

Katoch tracks shelf movement according to item position relative to a conveyor 11, 13 first end 15 and second end 17. Katoch discloses that a second end 17, e.g. belt speed, has a much faster speed than the first end, thereby creating a gap between each package, this gap provides stacking shelves ample time to raise each row of packages out of the way, allowing the packages to be delivered in a continuous manner. C3/L1-15. Thus, Katoch discloses tracking to prevent jams between shelves and items.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 3652

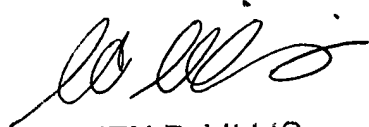
the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory W. Adams whose telephone number is (571) 272-8101. The examiner can normally be reached on M-Th, 8:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

GWA



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